

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1503	Press
		~~Mis.~~
121-122		
Dated	15. 9. 1862	10.

3/4

Not to be folded or rough / handled

Proceedings of the Madras Government, Judicial Department
15th September 1862.

No. 121. Read the following Extract from the Proceedings of the Right Honorable the Governor General of India in Council, in the Home Department, under date the 25th August 1862, No. 4,531.

Nos. 103-106, dated 28th September 1855.
Nos. 1-3, dated 14th May 1862.

Read again the Proceedings noted on the margin.

Read also the following communications from the Governments of Bombay, Fort Saint George and Bengal.

No. 85, dated 26th June 1862, from the Officiating Under Secretary, Bombay.

No. 1,119, dated 21st July 1862, from the Acting Chief Secretary to Government, Saint George.

No. 2,420, dated 1st August 1862, from the Government of Bengal.

RESOLUTION.

It appears that in September 1855, it was determined by the Governor General in Council that Judicial processes, both Civil and Criminal, when sent by post might be sent as on the public service without actual payment of postage.

2. In April last, the Director General of the Post Office in India brought to the notice of the Governor General in Council that "in the North-Western Provinces Covers containing Civil processes are transmitted through the Post Office with the postage prepaid thereon, in accordance with a Circular of 9th November 1861, issued by the Sudder Court." It was also intimated by the Director General that no difficulty was experienced in carrying out the orders of the Sudder Court, and that in England "all Covers containing Civil processes are prepaid before being transmitted through the Post Office." The Director General accordingly recommended the matter for the re-consideration of the Governor General in Council, observing that he saw no grounds on which the transmission of such Covers as on the public service could be considered justifiable.

3. On this reference from the Director General, the Governor General in Council expressed his opinion that he could not "see any more reason for the Government transmitting by post at the public expense the processes of the Civil Courts than there is for the conveyance of such processes, when not transmitted by post, by salaried peons to the persons upon whom the service is to be made, instead of requiring that the entire charge for the service should be borne by the parties at whose request they are issued, as was obviously the intention of "Section II of Act XXIII of 1861." The Governor General in Council accordingly proposed to direct that Civil processes should not any longer be treated as being on the public service. Before, however, passing final orders on the subject, His Excellency in Council deemed it expedient to invite the opinions of the local Government of Bombay, Fort Saint George and Bengal.

The Government of Bombay observes that the subject having been referred to the Sudder Adawlut, "the Judges have reported that Civil processes are not sent by post as on the public service, but that any postage payable on their transmission to any given place is required to be prepaid by the parties in whose interest the processes are issued." The Government of Bombay thinks this course to be expedient, and is of opinion that no change should be introduced in the practice now obtaining in that Presidency.

5. The Government of Fort Saint George reports that the Judges of the Sudder Court Madras "have already instructed the lower authorities that all Civil processes executed within another jurisdiction are to be forwarded by post at the expense of the parties on whose motion they are issued, and that no such process is to be issued until the party provides the requisite postage stamps both for its transmission and return in addition to the regulated charge for serving the process." The Governor in Council, in submitting the above report, expresses his approval of the rule adopted by the Sudder Court.

*Proceedings of the Madras Government, Judicial Department,
15th September 1862.*

6. 11. the C. North-Western
"Provinces, ... referred to, was adopted by the ... and
"issued by them to the Civil Authorities subordinate to them on the 30th June last.

The Governor General in Council observed
which prescribed that Judicial processes, both Civil and Criminal, when sent by post, should be
treated as being on the public service, are now of fact inoperative so far as regards the
transmission and return of Civil processes: ... is pleased now formally
above extent, the ...
without actual ...

... copy of this Resolution be forwarded to the Director General of the
Office in India for information, with reference to his letter, No. 3,361, dated 19th April last.

Ordered also, that a copy of this Resolution be forwarded to the Foreign Department for
information and for communication to the Administrations subordinate to it where necessary, and
to the Local Governments of Bengal, Bombay, Fort Saint George, and North-Western Provin-
information.

(True Extract.)

(Signed) A. M. MONTAGUE
Under Secy. to the Govt. of

No. 122.

ORDER THEREON, 15th September 1862, No. 1,503.

Communicated to the High Court.

(Signed)

PYCROFT,
Clerk.

*N^o: 1503 - 15 Sept 1862
Communicated to the
High Court.*

M

*Chief Justice & Judges of the } Sept 16th
The High Court*

Pro: 57 June/62 A-37-03.
in 21st July - A-177-178

Per: 1596. Mis: 141-2
August 1862.

Sub: 14 Sept.

J
Govt of India. Home Sec.
1862.

10th Sept 2 1862.

6th Office
No. 1820.

For information the
Resolution of that Govt. pro-
viding the provision or return
of the
Public Service in the
the Govt. of Postage.
According to the orders of 28th Sept
1855 so far as they relate to these
processes.

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With an Order